IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY EIGHTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 10416 of 2004

Between:

Duddu Srinivas S/o Komuraiah,32 yrs,
R/o Lingamadugupally, H/o Peddapoor (M),

Atmakur Mandal, Warangal District.

..... PETITIONER

AND

1 Sub- Inspector of Police, Atmakur Police Station, Warangal District.
2 Inspector of Police Atmakur Police Station, Warangal District.
3 Superintendent of Police, Warangal.

4. L.Shivaji, s/o Ramaiah, 35 yrs,

Occ:Sarpanch, (Under suspension) r/o Peddapoor village,

Atmakur (M) Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring that the action of the respondents 1 to 3 in not arresting fourth respondent in Cr. No. 169 of 2003 of Atmakur Police Station and in not investigating the case is highly arbitrary, bad and illegal and consequently direct the respondents 1 to 3 to arrest the fourth respondent in Cr. No. 169 of 2003 of Atmakur Police Station.

Counsel for the Petitioner: Mr.P.PRABHAKAR REDDY

Counsel for the Respondents: GP FOR HOME

The Court made the following :

ORDER:

The petitioner seeks a Writ of Mandamus declaring the alleged inaction on the part of the respondent Nos.1 to 3 in conducting the investigation in Crime No.169 of 2003 of Atmakur Police Station and in not arresting the 4th respondent as arbitrary and illegal.

The petitioner states that the 4th respondent who was elected as Sarpanch of Peddapoor Grampanchayat, Peddapoor has indulged in misappropriation of Grampanchayat funds. In the circumstances, the petitioner who is the Upa-Sarpanch of the Grampanchayat and six other members of the Gram Panchayat made a complaint to the District Panchayat Officer, Warangal on 08-07-2002, requesting to take action against the 4th respondent for misappropriation of the Grampanchayat funds. The Divisional Panchayat Officer enquired into the allegations and filed a report on 07-09-2002 stating that the 4th respondent misappropriated the Gram Panchayat funds to the tune of Rs.7,00,000/-. In pursuance thereof, a show cause notice dated 21-10-2002 was issued by the District Panchayat Officer framing as many as thirteen charges against the 4th respondent and calling upon him to show cause why action shall not be taken under Section 249(6) of the Panchayat Raj Act. The 4th respondent was also placed under suspension on 23-05-2003. While so, the petitioner lodged a complaint in Atmakur Police Station against the 4th respondent for the alleged misappropriation of the Grampanchayat funds. Since no steps were taken, he filed a complaint in the Court of the I Additional Judicial First Class Magistrate, Warangal. The case was referred to the Police for investigation under Section 156(3) of the Code of Criminal Procedure. The statements of the witnesses were recorded and all of them stated that the 4th respondent misappropriated huge amounts of the Grampanchayat funds. The grievance of the petitioner is that the respondents 1 to 3 failed to conclude the investigation so far and the 4th respondent

has not even been arrested in spite of the fact that the offence alleged is a cognizable offence. Hence, this writ petition.

On behalf of respondents 1 to 3, a Counter-affidavit has been filed denying all the allegations made by the petitioner. It is stated that in pursuance of the reference made by the I Additional Judicial First Class Magistrate, Warangal, a case was registered as Crime No.169 of 2003 under Section 409 of IPC and the investigation was taken up. However, since the accused is absconding with the original records, he could not be arrested and further investigation could not be conducted for want of original records.

The petitioner filed a detailed reply-affidavit disputing the stand taken by the respondents 1 to 3. In the reply-affidavit, it is stated that the 4th respondent is very much available in the village and he is also attending to his works. It is further alleged that the respondents 1 and 2 have colluded with the 4th respondent and they are shielding the 4th respondent and that is the reason why the 4th respondent has not been arrested so far. It is also relevant to note that the petitioner filed nine third-party affidavits sworn by the villagers of the Peddapoor village. In all the said affidavits, it has been stated that the version of the respondents 1 and 2 in the Counter-affidavit that the 4th respondent is absconding along with the original records is false and that the 4th respondent is very much present in the village.

I have heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents 1 to 3.

Having regard to the facts and circumstances of the case, and particularly, the specific stand taken by the petitioner that the respondents 1 and 2 have colluded with the 4th respondent and they are trying to shield the 4th respondent, I deem it appropriate to direct the 3rd respondent-Superintendent of Police, Warangal to look into the matter and to ensure that the investigation in Crime No.169 of 2003 is proceeded further expeditiously in accordance with law. There shall also be a direction to the 3rd respondent-Superintendent of Police, Warangal, to enquire into the factual position whether the 4th respondent is available in the village as asserted by the petitioner and to take necessary steps in accordance with law.

With the above directions, the Writ Petition is disposed of. No order as to

costs.

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(G.ROHINI,J)

28-07-2004.

TSY

To

1. The Sub- Inspector of Police,

Atmakur Police Station,

Warangal District

2. The Inspector of Police,

Atmakur Police Station,

Warangal District

3. The Superintendent of Police,

Warangal

4. Two CCs to the GP FOR HOME, High Court, Hyderabad (O. U.T.)

5. Two CD copies.